

PACHIPALA ET AL. -- 09/765,077  
Client/Matter: 090933-0276150

REMARKS

In the Office Action, the Examiner maintains rejections of Claims 1, 11 and 20-23 under 35 USC 102(e) as being anticipated by Nicolas et al. 6,593,944. The Examiner further maintains rejections of Claims 2-10, 12-14, 16-19 and 24 under 35 USC 103(a) as being unpatentable over Nicolas in view of Ishimine 5,764,227. Applicants incorporate and restate previous arguments made to prior Office Actions.

In the Final office Action, the Examiner incorrectly alleges that Applicants previous arguments can be dismissed on the basis of two issues: (A) the meaning of the terms "data structure" and "context identifier," and (B) the patentability of a recitation in the preamble. Applicants respectfully submit that in using extrinsic evidence and mischaracterizing Applicants arguments, the Examiner has improperly rejected the claims pending in the Application.

The Office Action improperly attributes an incorrect and questionable meaning to the term "data structure." If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with applicant's use of the terms. *Brookhill-Wilk* I, 334 F. 3d at 1300, 67 USPQ2d at 1137; see also *Renishaw PLC v. Marposs Societa" per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998) ("Where there are several common meanings for a claim term, the patent disclosure serves to point away from the improper meanings and toward the proper meanings."). In rejecting the claims of the present Application, the Examiner ascribes a meaning apparently derived from a so-called "Computer Desktop Encyclopedia" of unknown authorship and indeterminate publication information. Further, Examiner asserts that "in technology information about data structure ... a data file is an example of data structure."

Applicants respectfully submit that the Examiner applied an unusual meaning to a term that is well described in the Specification in accordance with its common meaning. For example, Figures 2b and 2c depict data structures and the description discusses data structures in the

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paragraph spanning pages 7 and 8 (lines 236 to 247). Further, Applicants respectfully submit that the Examiner's view of the term "data structure" does not reflect the common meaning of the term. The Examiner is referred to the National Institute of Standards and Technology (at <http://www.nist.gov/dads/HTML/datastructur.html>) for a definition of the term "data structure" that does not include a data file. Consequently, Applicants submit that the Examiner's view of the term "data structure" is inconsistent with the common meaning of the term and that the term as defined in the Specification is consistent with the meaning understood by one of ordinary skill in the art. Therefore, the rejections of the claims of the present Application are improper because the Examiner attributes a definition inconsistent with the Specification and art..

Regarding the term "context identifier," Applicant notes that this term does not appear in the claims. However, the term "context indicator" is recited in various claim limitations and is defined and described in the Specification (see for example, the paragraph spanning pages 7 and 8). For the reasons discussed above, rejections based on an arbitrary redefinition of the term "context indicator" would also be improper and Applicants submit that the Examiner should withdraw the rejections and reconsider the arguments based on the term "context indicator" as recited in the claims.

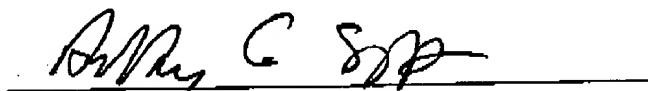
In rejecting the claims based on the preamble, the Examiner fails to consider arguments directed to limitations of the claims. For example, Applicants argue that: "Nowhere in Nicolas is context mentioned." The examiner does not dispute that Nicolas fails to teach context. Therefore, since Nicolas does not teach a required limitation of the claims of the present Application the maintenance of the rejections is improper. Therefore, Applicants respectfully submit that the rejections of the claims should be withdrawn.

All objections and rejections having been addressed, and in view of the foregoing, the claims are believed to be in form for allowance, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, he or she is kindly requested to contact the undersigned at the telephone number listed below.

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Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,  
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